

02-6

RIDGE VIEW ACADEMY
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FILED/ACCEPTED

DEC 15 2010

Federal Communications Commission
Office of the Secretary

Improving the Lives of Youth Since 1984

To:	Federal Communications Commission	From:	[REDACTED]
Fax:	202-418-0187	Pages:	[REDACTED]
Phone:		Date:	12/10/10
Re:	Appeal of USAC ruling	cc:	

Comments:

Attached are documents relating to Ridge View Academy's appeal of a USAC ruling dated October 15, 2010.

Following is contact information as requested in the appeal instructions from the FCC web site:

Carolyn Jenkins-Bower
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Email cjbower@rop.com and erate@riteofpassage.com

WC Docket NO 06-122

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Federal Communications Commission Page 1 of 3
Office of the Secretary**Ridge View Academy**

From: Ridge View Academy (Erate Team) 28101 East Quincy Ave Watkins, CO 80137 December 10, 2010	Billed Entity Name: - Ridge View Academy Form 471 Application Number - 405403 Billed Entity Number - 226689 FCC Registration number - 0012965000 WC Docket NO 06-122
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Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

Ridge View Academy (RVA) is seeking a waiver of the FCC rule that states applicants must secure necessary resources to make effective use of the equipment funded by this program. RVA held a fair and open competitive bidding process then choose the most cost effective service provider. The service provider failed to include all equipment needed to complete the project in the bid response which caused RVA to budget funds inaccurately thus resulting in the alleged rule violation. RVA relied on industry experts to provide honest and accurate pricing and has no control over vendors and does not feel that they violated the FCC rule.

RVA is respectfully asking the FCC to consider the role of the service provider when determining action. Additionally, RVA is asking the FCC to take into consideration the hardship, equity and the fact that these allegations did not constitute waste, fraud or abuse.

The original contract was signed January 23, 2004 by ISC and Ridge View Academy. This was the first large project that Ridge View Academy applied for through the erate program and the school and staff were inexperienced with the complex erate process. Ridge View Academy expected that because a Cisco certified provider was awarded the contract that they were qualified to design and implement a new network system. It was also expected that the vendor would include all needed components in the bid and implement systems following all applicable erate rules.

Ridge View Academy included a statement in the project purchase order stating that the vendor agreed that the cost would not exceed the amount of the purchase order under any circumstances and that the vendor agreed to implement services in line with all USAC rules and regulations. RVA contends that ISC failed to meet this responsibility by failing to include the needed Communications Media Module. RVA also contends that they were not made aware of the needed module by the vendor and reasonably did not budget for the module.

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needed Communications Media Module. RVA also contends that they were not made aware of the needed module by the vendor and reasonably did not budget for the module.

In the fall of 2006, Bearing Point came to Ridge View Academy for a USAC site visit and reviewed the installation and documentation relating to this project. As a result of the Bearing Point site visit, there were several follow-up questions that were asked by David LeNard of USAC in September of 2006. In RVAs response by email on October 11, 2006, it was noted that the T1 interface cards were not installed because the vendor failed to order necessary parts. RVA made every attempt to rectify the situation with the vendor by asking them to return the parts. The vendor denied RVAs request and was unwilling to negotiate anything other than RVA paying the full cost of the Communications Media Module of which RVA did not budget for because they believed the ISC proposed solution included all parts needed to function and to comply with USAC rules.

During the Bearing Point site visit process, RVA pointed out this situation to USAC and the Bearing Point representative looking to receive guidance in how to resolve the situation. RVA believed that they were required to certify¹ to USAC that the parts were received because they were delivered and RVA did not receive the requested guidance as to how to resolve the dispute relating to the additional part needed for proper function before service certification.

RVA was advised that after the USAC site visit they would receive written notification of any problems and be provided time to resolve any issues. After a year had passed without any further contact or requests, RVA believed that USAC did not have any problems with the installation and RVA put the file into archive status. It was not until RVA received the "Improperly Dispersed Funds Recovery" letter in late July of 2010 that they were aware of a perceived problem. After receiving that letter, RVA purchased the required module and provided documentation to USAC that the school had complied with the SOW and made every effort to comply with USAC rules. It was noted in the appeal denial from USAC that the equipment is now installed but that the equipment was not being utilized in FY 2004 according to FFC rules and the appeal was therefore denied.

RVA did not receive a quote or sign a contract that had the equipment omitted by the service provider then decide not to purchase them because of budget limitations. RVA budgeted the non-discount portion based on the amount contracted as required by the E-rate program.

In 2007, the commission issued the Academy of Excellence Phoenix AZ order to waive this rule for applicants that failed to provide sufficiently documentation, for applicants that had a reasonable expectation to obtain the necessary resources or failed to provide sufficient documentation about necessary resources in a timely manner. Additionally, the order instructed USAC to provide additional support to applicants who USAC believes lack the

¹ USAC certification states "services described on the attached vendor invoice were delivered and/or installed".

necessary resources. "USAC shall: (1) inform the applicant promptly in writing of any and all deficiencies, along with a clear and specific explanation of how the applicant can remedy those deficiencies; and (2) permit the applicant to submit additional documentation, if any, within 15 calendar days from the date of receipt of notice in writing by USAC.² USAC failed to notify the RVA that they believed there may be a lack of resources nor did they permit the applicant to provide additional documentation. In fact, the applicant reached out to USAC on many occasions and USAC failed to provide any assistance.

RVA has made every attempt to comply with all USAC rules and that they did in fact secure the necessary resources to make effective use of the equipment. RVA paid all contracted amounts to the vendor and attempted to comply with all USAC rules.

The receipt of this RIFD letter, on July 20, 2010, was the first notification Ridge View Academy received that there was a potential problem. Ridge View Academy decided the best course of action was to fix the perceived problem and appeal to USAC with documentation that the problem had been fixed. In the supporting document labeled (attachment 1) you will see that USAC denied the appeal by Ridge View Academy. We have highlighted the portion of the denial letter that succinctly states the perceived rules violation for the purpose of helping to understand our appeal case as is submitted in this document. In short, the statement says that the school (did not secure necessary resources to make effective use of the equipment). Ridge View Academy contends that this is an incorrect conclusion based on several relevant facts outlined in this letter.

RVA is asking the FCC to consider the fact that USAC did not follow the additional processing directives outlined in the Academy of Excellence order. RVA followed program rules by securing necessary resources to make effective use of the equipment however, the service provider failed to include components necessary to make use of the services provided in their contract for services, which caused RVA to delay the implementation of the network.

In closing, please note that Ridge View Academy is struggling with the economic downturn like many other schools. Student enrollment is declining which results in a reduction in revenue. It is becoming increasingly difficult to continue providing high quality services to underprivileged youth. A denial of this appeal will ultimately negatively affect the schools ability to provide quality services to the youth it serves.



Carolyn Jenkins-Bower
Chief Financial Officer

² Request for review of Decisions of the Universal Service Administrator by Academy of Excellence Phoenix, AZ, et al file no. SLD-261209, et al, cc docket no. 02-6

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Attachment 1



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

October 15, 2010

Carolyn Jenkins-Bower
Ridge View Academy
28101 East Quincy Ave.
Watkins, CO 80137

Re: Applicant Name: RIDGE VIEW ACADEMY
Billed Entity Number: 226689
Form 471 Application Number: 405403
Funding Request Number(s): 1110178
Your Correspondence Received: September 16, 2010

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2004 Notification of Improperly Disbursed Funds Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1110178
Decision on Appeal: Denied
Explanation:

- As the results of a site visit by USAC, it was discovered that Ridge View Academy had uninstalled items, two Cisco-6 port T1 Interface Port Adapters and two Cisco Adhoc Conferencing and Transcoding Port Adapters, for Fund Year 2004. A Recovery of Improperly Disbursed Funds (RIDF) letter was issued (July 7, 2010) informing Ridge View Academy of our intentions to recover these disbursed funds. On appeal, you indicated that Ridge View Academy has purchased the chassis required to house the equipment (two Cisco-6 port T1 interface port adapters and two Cisco Adhoc Conferencing and Transcoding port adapters) and these items have now been installed and provided relevant pictures. You have also indicated that the above uninstalled equipment is now installed. This is noted, but the fact remains that the equipment was not being utilized in FY 2004. FCC rules require that all applicants have secured the necessary resources.

to make effective use of the equipment and that the equipment is utilized for an educational purpose (as was mentioned in the RIDF Letter). Therefore the appeal is denied.

- SLD improperly disbursed funding for services that were not provided or equipment that was not installed as approved on the applicant's FY2004 FCC Form 471. FCC rules authorize USAC to disburse funds to service providers for providing supported services to eligible entities. 47 C.F.R. §§ 54.501(a), 54.517. These rules are violated if the service provider receives payment for services and/or products that were not delivered to the eligible entity. In the Fifth Report and Order, the Commission stated that it would not be appropriate "for a beneficiary to retain an overpayment if, for some reason, USAC has mistakenly disbursed an amount in excess of that which the entity is allowed under our rules". See Federal State Joint Board on Universal Service, Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, *Fifth Report and Order and Order*, 19 FCC Rcd at 15821-22, 30, FCC 04-190, ¶ 29 (rel. Aug. 13, 2004). The FCC further states that "the service provider is likely to be the entity that fails to deliver supported services within the relevant funding year, fails to properly bill for supported services" and therefore, the service provider should be a party to whom recovery should be directed. Federal State Joint Board on Universal Service, Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Schools and Libraries Universal Service Support Mechanism, *Order on Reconsideration and Fourth Report and Order*, 19 FCC Rcd 15252, FCC 04-181, ¶ 15 (rel. Jul. 30, 2004).

If your appeal has been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company